

OPINION SUMMARY

MISSOURI COURT OF APPEALS EASTERN DISTRICT

DIVISION TWO

TRAVELERS PROPERTY CASUALTY)	No. ED96780
COMPANY OF AMERICA and)	
JACOBSMEYER-MAULDIN)	
CONSTRUCTION COMPANY,)	
)	
Plaintiffs,)	
)	
v.)	
)	
THE MANITOWOC COMPANY, INC.,)	Appeal from the Circuit Court of
)	the County of St. Louis
Defendant/Third-Party Plaintiff/)	Cause No. 09SL-CC04791
Appellant,)	Honorable Tom W. DePriest, Jr.
)	
v.)	
)	
UNITED STATES STEEL CORPORATION,)	
as successor-in-interest to)	
LONESTAR TECHNOLOGIES, INC.)	
a/k/a/ LONESTAR STEEL,)	
)	
Third-Party Defendant/Respondent.)	Filed: January 24, 2012

The Manitowoc Company, Inc. appeals the Circuit Court of St. Louis County's dismissal with prejudice of its third-party claim for contribution/indemnity against United States Steel Corporation. Appellant claims the trial court erred in dismissing the claim because the court had jurisdiction over the claim, or if the trial court did not have jurisdiction, the proper disposition was to strike the third-party petition.

AFFIRMED.

DIVISION TWO HOLDS: The trial court did not abuse its discretion in choosing not entertain the third-party claim since it was based on a different theory of recovery and involved different facts to prove each claim. Additionally, the proper disposition of the claim was dismissal with prejudice as Appellant failed to state a claim for relief in that it did not admit or allege its own liability in the underlying case.

Opinion by: Kenneth M. Romines, J.
Kathianne Knaup Crane, P.J. and Robert M. Clayton III, J., concur.

Attorneys for Appellant The Manitowoc Company, Inc.: James C. Morrow, M. Todd Moulder

Attorneys for Respondent U.S. Steel: Stephen L. Beimdiek, Sarah J. Hugg

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